

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

SCOTT ALAN COZENS,)	
)	
Plaintiff,)	
vs.)	Case Number CIV-11-841-C
)	
WOODWARD COUNTY OKLAHOMA,)	
ex rel. THE WOODWARD COUNTY)	
COMMISSIONERS; THE WOODWARD)	
COUNTY SHERIFF'S DEPARTMENT;)	
and THE DISTRICT COURT OF)	
WOODWARD COUNTY,)	
)	
Defendants.)	

MEMORANDUM OPINION AND ORDER

Plaintiff seeks reconsideration of the Court's December 21, 2011, Order which dismissed this action with prejudice. The Court's earlier Order determined that Plaintiff had failed to take any action to challenge the validity of the conviction for which he now seeks damages. Plaintiff argues the Court's determination was in error as he filed a motion in state court seeking an Order Nunc Pro Tunc. In support of his Motion to Reconsider, Plaintiff has attached a copy of the motion filed in the state court.

Plaintiff's request for reconsideration is without merit. As the Court noted in its earlier Order, Muhammad v. Close, 540 U.S. 749, 751 (2004), holds: "[W]here success in a prisoner's § 1983 damages action would implicitly question the validity of conviction or duration of sentence, the litigant must first achieve favorable termination of his available state, or federal habeas, opportunities to challenge the underlying conviction or sentence." Because the challenge Plaintiff undertook did not result in a favorable determination, i.e., that

his conviction was wrongful, he cannot now bring a damages claim which would implicitly challenge the validity of the sentence. Accordingly, Plaintiff has failed to state a claim for relief and his action must be dismissed.

For the reasons set forth herein, Plaintiff's Motion for Reconsideration and for Relief from Judgement (Dkt. No. 18) is DENIED.

IT IS SO ORDERED this 11th day of January, 2012.



ROBIN J. CAUTHRON
United States District Judge